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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,862	01/21/2005	Paulus Cornelis Neervoort	NL 020772	1298
24737 7590 06/26/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
HOEL, MATTHEW D				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
06/26/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/521,862

**Applicant(s)**

NEERVOORT ET AL.

**Examiner**

Matthew D. Hoel

**Art Unit**

3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-17.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714

/M. D. H./  
Examiner, Art Unit 3714

Continuation of 11, does NOT place the application in condition for allowance because: The physical location newly cited leads the examiner to believe that the applicants intend to say that a location in a virtual game space corresponds to a location in a physical game space, but this is not cited. The amendment would require further search and consideration of novelty and non-obviousness. The connection-related information of Kagan ('045) does require knowing how modular units are related to one another in a common game space as they can be connected in an ad-hoc wireless network (Fig. 1, 3:40-53) or within reception/transmission range of a play station (Fig. 3, 5:15-30). The claim language does not cite that a physical game space has corresponding location in a virtual game space with the same spatial relationships carried over. The examiner believes he read the claims in light of the specification without reading the limitations of the specification into the claims. The specification (US 2005/0288100 A1) has actual sports (Paras. 84 & 89, volleyball, basketball, etc.) where such a correlation between locations in a virtual space and a physical space might be useful. There are also passages in the specification discussing board or table games which would have a virtual game space and would not require, and would possibly not be operable with, physical correlation between physical and virtual game space locations (Monopoly, Trivial Pursuit, Black Jack, Poker, etc., Para. 80; Para. 26). The examiner believes a physical game space as the applicants would intend to claim by the present amendment may still be obvious in light of Kagan ('045), if not anticipated. Meyers, et al. in US 6,674,995 B1 teach virtually passing a ball from a player holding one portable apparatus to another player holding another portable apparatus. This could possibly be useful in making the '045 basketball game more realistic in that players would be able to hand off the ball to other players based on actual location in physical game space. For there to be any allowable subject matter, at the least, the applicants would have to amend the claims to indicate which type of game they are simulating (sports, Paras. 84 & 89 of spec.; or board/table games, Paras. 26 & 80 of spec.) and how the players relate to each other based on their relative locations in virtual- and/or physical-game space. This may raise 112 issues, because the applicants do not seem to develop such relationships much in their specification. The examiner respectfully disagrees with the applicants as to the claims' condition for allowance.